

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE)
COMMISSION,,)

Plaintiff,)

v.)

VIPER CAPITAL MANAGEMENT,)
LLC, COMPASS FUND)
MANAGEMENT, LLC, and EDWARD)
SEWON EHEE,)

Defendants.)

and)

COMPASS WEST FUND, LP, VIPER)
FOUNDERS FUND, LP, VIPER)
INVESTMENTS, LP, ALBERT)
EHEE, ROBERT EHEE, JENNIFER)
EHEE,)

Relief Defendants.)

In re: EDWARD SEWON EHEE,)
Debtor.)

In re: COMPASS FUND MGMT.,)
LLC, Debtor.)

In re: COMPASS WEST FUND,)
L.P., Debtor.)

AAG ROOSEVELT FUND, L.P.,)

Plaintiff,)

v.)

EDWARD SEWON EHEE, COMPASS)
FUND MGMT., LLC, COMPASS)
WEST FUND, LP, VIPER CAPITAL)
MGMT., LLC, VIPER FOUNDERS)
FUND, LP, ROBERT EHEE,)
ALBERT EHEE, JENNIFER EHEE,)

Defendants.)

No. C06-6966 SI (DM)(BZ)

AND RELATED CASES

No. C07-3996 SI (DM)(BZ)

No. C07-3995 SI (DM)(BZ)

No. C07-3997 SI (DM)(BZ)

No. C06-7270 SI (DM)(BZ)

1 KEVIN BRADFORD and RICHARD)
 2 GARMAN,)

3 Plaintiffs,)
 4 v.)

5 EDWARD SEWON EHEE, VIPER)
 6 CAPITAL MGMT., LLC, COMPASS)
 7 FUND MGMT., LLC, ROBERT)
 8 EHEE, ALBERT EHEE, JENNIFER)
 9 EHEE,)

10 Defendants.)
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No. C07-4747 SI (DM)(BZ)

**ORDER SCHEDULING SETTLEMENT
 CONFERENCE**

8 The above matter was referred to Bankruptcy Judge Dennis
 9 Montali and Magistrate Judge Bernard Zimmerman for settlement
 10 purposes.

11 You are hereby notified that a settlement conference is
 12 scheduled for **Monday, January 28, 2008, at 9:00 a.m.**, in
 13 Courtroom G, 15th Floor, Federal Building, 450 Golden Gate
 14 Avenue, San Francisco, California 94102. The settlement
 15 conference will not be postponed absent leave of the
 16 settlement judges.

17 It is the responsibility of counsel to ensure that
 18 whatever discovery is needed for all sides to evaluate the
 19 case for settlement purposes is completed by the date of the
 20 settlement conference. Counsel shall cooperate in providing
 21 discovery informally and expeditiously.

22 Lead trial counsel shall appear at the Settlement
 23 Conference with the parties. Any party who is not a natural
 24 person shall be represented by the person or persons with **full**
 25 authority to negotiate a settlement. A person who needs to
 26 call another person not present before accepting, rejecting or
 27 making any settlement offer does not have full authority. If
 28 a party is a governmental entity, its governing body shall

1 designate one of its members or a senior executive to appear
2 at the Settlement Conference with authority to participate in
3 the Settlement Conference and, if a tentative settlement
4 agreement is reached, to recommend the agreement to the
5 governmental entity for its approval. An insured party shall
6 appear with a representative of the carrier with full
7 authority to negotiate up to the limits of coverage. The
8 Court shall be notified immediately if the carrier declines to
9 attend. Personal attendance of a party representative will
10 rarely be excused by the Court, and then only upon separate
11 written application demonstrating substantial hardship served
12 on opposing counsel and lodged no later than **January 7, 2008**.

13 Each party shall prepare a Settlement Conference
14 Statement, which must be served on opposing counsel and lodged
15 (not faxed) with both settlement judges' chambers no later
16 than seven calendar days prior to the conference. Judge
17 Montali's chambers are at 235 Pine Street, 22nd Floor, San
18 Francisco, CA 94104 (mailing address: P.O. Box 7341, San
19 Francisco, CA 94120). The Statement shall **not** be filed with
20 the Clerk of the Court. The Statement **may** be submitted on CD-
21 ROM with hypertext links to exhibits. Otherwise, the portion
22 of exhibits on which the party relies **shall** be highlighted.
23 The Settlement Conference Statement shall not exceed ten pages
24 of text and twenty pages of exhibits and shall include the
25 following:

- 26 1. A brief statement of the facts of the case.
- 27 2. A brief statement of the claims and defenses
- 28 including, but not limited to, statutory or other grounds upon

1 which the claims are founded.

2 3. A summary of the proceedings to date and any pending
3 motions.

4 4. An estimate of the cost and time to be expended for
5 further discovery, pretrial and trial.

6 5. For any party seeking relief, a description of the
7 relief sought, including an itemization of damages.

8 6. Any presently scheduled dates for a further status
9 conference, pretrial conference, or for trial.

10 7. A copy of any governing contracts or other documents
11 which are central to the case.

12 8. The parties' position on settlement, including
13 present demands and offers and a history of past settlement
14 discussions. Counsel should be prepared to present orally to
15 the settlement judges a forthright evaluation of the
16 likelihood of prevailing on claims and defenses. The
17 settlement judges' time can best be used to assist the parties
18 in completing their negotiations, not in starting them.

19 Accordingly, plaintiff must serve a demand in writing no later
20 than fourteen days before the conference and defendant must
21 respond in writing no later than eight days before the
22 conference. If plaintiff seeks attorney's fees and costs,
23 plaintiff's counsel shall either include the fee claim in the
24 demand or make a separate, simultaneous demand for fees and
25 costs. Counsel shall be prepared at the conference to provide
26 sufficient information to defendant to enable the fee claim to
27 be evaluated for purposes of settlement. The parties are
28 urged to carefully evaluate their case before taking a

1 settlement position since extreme positions hinder the
2 settlement process.

3 Along with the Settlement Conference Statement each
4 party shall lodge with each settlement judge a document of no
5 more than three pages containing a **candid** evaluation of the
6 parties' likelihood of prevailing on the claims and defenses,
7 and any other information that party wishes not to share with
8 opposing counsel. The more candid the parties are, the more
9 productive the conference will be. This document shall not be
10 served on opposing counsel.

11 The settlement conference will not conclude absent leave
12 of the settlement judge, who may continue the conference from
13 time to time at the judge's discretion. The settlement judge
14 may issue any order deemed appropriate to facilitate
15 settlement or the expeditious resolution of the dispute.

16 **Parties and their counsel should be prepared to remain beyond**
17 **normal business hours if necessary; travel arrangements should**
18 **be flexible and alternative arrangements should be made for**
19 **routine personal and family commitments.**

20 Parties are encouraged to participate and frankly discuss
21 their case. Statements they make during the conference will
22 not be admissible at trial in the event the case does not
23 settle. The parties should be prepared to discuss such issues
24 as:

- 25 1. Their settlement objectives.
- 26 2. Any impediments to settlement they perceive.
- 27 3. Whether they have enough information to discuss
- 28 settlement. If not, what additional information is needed.

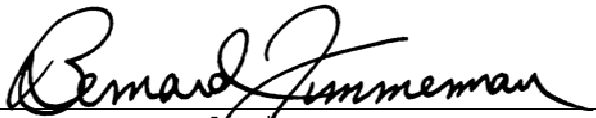
1 4. The possibility of a creative resolution of the
2 dispute.

3 The parties shall notify Magistrate Judge Zimmerman's and
4 Bankruptcy Judge Montali's chambers immediately if these cases
5 settle prior to the date set for settlement conference.
6 Counsel shall provide a copy of this order to each party who
7 will participate in the conference.

8 Failure to comply with the terms and spirit of this order
9 may lead to the imposition of sanctions under Bankruptcy Rule
10 7016 and Fed.R.Civ.P 16(f).

11 Plaintiffs are directed to assure that all defendants in
12 their case are notified of this conference.

13 DATED: December 19, 2007

14 
15 Bernard Zimmerman
United States Bankruptcy Judge